IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

an an an an an an an

BLUE SPIKE, LLC Plaintiff. Civil Action No. 6:12-CV-499 MHS

v.

LEAD CASE

TEXAS INSTRUMENTS, INC. Defendants

BLUE SPIKE, LLC,

Civil Action No. 6:12-CV-576 MHS

CONSOLIDATED CASE

Plaintiff,
v.
AUDIBLE MAGIC CORPORATION,
FACEBOOK, INC., MYSPACE, LLC,
SPECIFIC MEDIA, LLC,
PHOTOBUCKET.COM, INC.,
DAILYMOTION, INC.,
DAILYMOTION, S.A., SOUNDCLOU

DAIL YMOTION, INC.,
DAIL YMOTION S.A., SOUNDCLOUD,
INC., SOUNDCLOUD LTD., MYXER,
INC., QLIPSO, INC., QLIPSO MEDIA
NETWORKS LTD., YAP.TV, INC.,
GOMISO, INC., IMESH, INC.,
METACAFE, INC., BOODABEE
TECHNOLOGIES, INC., TUNECORE,
INC., ZEDGE HOLDINGS, INC.,
BRIGHTCOVE INC.,
COINCIDENT.TV, INC., ACCEDO
BROADBAND NORTH AMERICA,
INC., ACCEDO BROADBAND AB,
AND MEDIAFIRE, LLC
Defendants.

BLUE SPIKE, LLC, Plaintiff,

V.

WIOFFER, LLC Defendant. Civil Action No. 6:12-CV-570 MHS

CONSOLIDATED CASE

DECLARATION OF TREVOR STOUT IN SUPPORT OF DEFENDANT AUDIBLE MAGIC CORPORATION'S AND ITS CUSTOMERS' MOTION TO TRANSFER VENUE TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA UNDER 28 U.S.C. § 1404(a)

- I, Trevor Stout, declare under penalty of perjury that the following is true and correct:
- I am the CEO of Yap.TV, Inc. I have personal knowledge of the facts set forth in this
 declaration, or access to Yap.TV, Inc.'s ("Yap") corporate information and records allowing me
 to confirm these facts. If called as a witness, I could testify competently to these facts under
 oath.
 - Yap is headquartered in Los Altos, California, in the San Francisco Bay Area.
 - Yap has no operations, employees, or property in Texas.
 - Yap regularly conducts business in the San Francisco Bay Area and Silicon Valley.
- The Yap products accused in the complaint in the above-referenced action incorporate Audible Magic technology accused in the complaint.
- 6. In December 2011, Yap entered into an agreement with Audible Magic, located in Los Gatos, California, for a trial period of Audible Magic's Content Identification Services. This is technology accused by Blue Spike in the instant action. The Content Identification Services provided to Yap were, at all times, managed by Audible Magic on its computer servers and in its network operations center in Los Gatos, California and San Jose, California.
- Yap interacted with Audible Magic technical and business personnel in Los Gatos,
 California to obtain the agreement with Audible Magic and with regard to technical aspects of
 the Audible Magic technology.
- 8. During the trial period, Yap utilized or accessed servers, databases, and software located in and/or originating from Audible Magic in Los Gatos, California. Yap employees responsible for entering into the agreement with Audible Magic are located in Los Altos, California.

 Yap had no access to, and no ability to alter, Audible Magic's proprietary source code used to run Audible Magic's Content Identification Services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on May 2, 2013 in Los Al tos